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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/366,351	08/02/1999	DUANE GALENSKY	GALENSKY5-2	2958

7590 03/02/2004

MORGAN & FINNEGAN LLP
345 PARK AVENUE
NEW YORK, NY 101540053

EXAMINER

MEKY, MOUSTAFA M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/366,351

Applicant(s)

GALENSKY ET AL.

Examiner

Moustafa M Meky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The response after final filed 2/2/2004 has been entered and considered by the examiner, and the finality of this application is withdrawn.

2. Claims 1-69 are presenting for examination.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17, 20-37, 39-54, 59-61, 63-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US Pat. No. 6,175,822) in view of Ravi (US Pat. No. 6,292,834).

5. As to claims 1, 63-64, Jones shows in Fig 1 (see col 3, lines 53-64), a device 20 for receiving and playing a multimedia file (audio file, see col 4, lines 13-14, lines 54-57, col 5, lines 5-6) from a multimedia server 14 over a wireless network (see col 4, lines 51-52), comprising:

- a microprocessor (not shown in the Fig), see col 5, lines 32-36;
- a transceiver (not shown in the Fig) for receiving successive blocks of data, col 3, lines 65-67, col 4, line 1, lines 4-6, col 4, lines 25-27, lines 9-14, lines 26-28;
- a buffer (not shown in the Fig) for temporarily storing the received blocks of data, see the abstract, lines 5-7, col 5, lines 62-65, col 6, lines 22-26, col 7, lines 8-10, lines 16-17; and

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- an output (speaker) for playing the processed blocks of data, see the abstract, lines 7-9, col 4, lines 1-4, lines 6-8, lines 21-24, col 9, lines 4-5, lines 19-22.

However, Jones does not teach receiving blocks of data at initial data transfer rate that is reduced upon receipt of a predetermined amount of data. Ravi shows in Figs 2 & 4 a system in which the transmission rate is dynamically adjusted based upon the number of data currently in the playout buffer, see the abstract, lines 1-18, col 3, lines 3-25, col 5, lines 43-51, col 6, lines 32-55, lines 63-67, col 7, lines 1-2, col 11, lines 27-31.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Ravi with the system of Jones in order to avoid data loss and data corruption.

6. As to claims 2-3, the combination of Jones and Ravi shows that the blocks of data are received in a digitized and compressed format in different transmission rate, and the data is decoding and decompressed by the microprocessor, see Jones, col 5, lines 32-39, lines 62-67, col 6, lines 1-10, and Ravi, see the abstract, lines 1-18, col 3, lines 3-25, col 5, lines 43-51, col 6, lines 32-55, lines 63-67, col 7, lines 1-2, col 11, lines 27-31.

7. As to claim 4, the combination of Jones and Ravi shows the use of a non-volatile memory for storing the decoding, decompression program, and a program for transmitting a signal to a streaming device 14, see Jones, col 5, lines 62-67, col 6, lines

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1-10, col 7, lines 5-20, and Ravi, see the abstract, lines 1-18, col 3, lines 3-25, col 5, lines 43-51, col 6, lines 32-55, lines 63-67, col 7, lines 1-2, col 11, lines 27-31.

8. As to claims 5, 7 & 65-69, Jones shows the use of a memory for storing the received blocks for subsequent playback, see col 5, lines 37-39, lines 62-65, col 6, lines 22-25.

9. As to claim 6, Jones shows a visual display (monitor) for displaying the file's name, see col 6, lines 37-40, lines 47-48, col 7, lines 12-16, col 8, lines 51-61.

10. As to claim 8, Jones shows that the file is a digital audio file, see col 4, lines 13-14, lines 54-57, col 5, lines 5-6.

11. As to claim 9, Ravi shows that the multimedia file is a digital video file (multimedia stream), see the abstract, lines 1-18.

12. As to claims 10-11, Jones shows that the output is an audio speaker, see the abstract, lines 7-9, col 4, lines 1-4, lines 6-8, lines 21-24, col 9, lines 4-5, lines 19-22.

13. As to claim 12, Ravi shows that the output device is a visual display, see client 240 in Fig 2.

14. As to claims 13-16, Ravi shows the claimed limitations of adjusting the transmission rate based upon the buffer's size, see the abstract, lines 1-18, col 3, lines 3-25, col 5, lines 43-51, col 6, lines 32-55, lines 63-67, col 7, lines 1-2, col 11, lines 27-31.

15. As to claim 17, Jones shows that the device is portable, see col 4, lines 45-53, col 8, lines 24-29.

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16. As to claims 20-37, 39-54, 59-61, and 65-69, the claims are similar in scope to claims 1-17, 63-64, and they are rejected under the same rationale.

Therefore, it can be seen from paragraphs 5-16 that the combination of Jones and Ravi teaches the limitations of claims 1-17, 20-37, 39-54, 59-61, 63-69.

17. Claims 18-19, 38, 55-58, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones as applied to claim 1-17, 20-37, 39-54, 59-61, 63-69 above, and further in view of Srinivasan (US Pat. No. 6,460,076).

18. As to claims 18-19, the combination of Jones and Ravi were silent about billing the user for the download file. The process of billing a user for receiving and playing a file from a streaming server was well known in the art as been shown by Srinivasan. Srinivasan shows a system for billing the user for downloading a streamed file from a server, see the abstract, col 1, lines 5-8, lines 66-67, col 2, lines 1-15, col 4, lines 15-17, lines 27-29, col 6, lines 33-35, col 7, lines 55-60. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Srinivasan with the combined system of Jones and Ravi in order to obtain revenue for the service system.

19. As to claims 38, 55-58, 62, the claims are similar in scope to claims 18-19, and they are rejected under the same rationale.

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Therefore, it can be seen from paragraphs 18-19 that the combination of Jones, Ravi, and Srinivasan teaches the limitations of claims 18-19, 38, 55-58, and 62.

20. In response to the applicant's arguments, the new action is addressing these arguments, see the entire action.

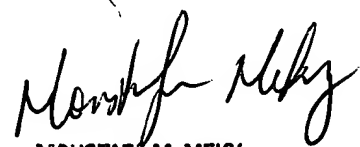
21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is (703) 305-9697. The examiner can normally be reached on week days from 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached on (703) 308-7562. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The fax number for official correspondence/amendment is (703) 872-9306.

M.M.M

February 19, 2004


MOUSTAFI M. MEKY
PRIMARY EXAMINER